IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3438 OF 2005

M/s.Khyber Restaurant & Anr. : Petitioners

V/s.

Mrs.Chinibai Kapurchand Sanghvi : Respondent

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Mr.S.A.Sawant for the petitioners.

Mr.A.P.Parlikar for the respondent.

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CORAM : S.A. BOBDE, J.

July 4, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Parlikar, learned counsel, appears and waives service of rule on behalf of the respondent.

Heard by consent.

2. The trial Court has granted conditional leave to the petitioners to defend the summary suit on depositing a sum of Rs.7,96,558/-, Rs.7,11,260/- being the amount of cheque no.466986 dated 15.6.1998 drawn by the petitioners in favour of the respondent-plaintiff.

3. Mr.Sawant, learned counsel for the petitioners,

referred to a decision of this Court in Purnima Jaitly v. Mr. Ravi Bansi Jaisingh [2003 (4) All M.R. 605] in which this Court has observed that a suit to recover money based on a cheque drawn in favour or endorsed to the plaintiff can be tried as a summary suit. Admittedly, the petitioners have drawn the aforesaid cheque in favour of the respondent. Hence, there is no reason to interfere with the order of the trial Court, except that instead of the sum of Rs.7,96,558/-, the petitioner shall deposit Rs.7,11,260/-. The time to deposit is extended by eight weeks from the next date before the trial Court. All contentions of both the parties are left open.

4. The petition stands disposed of in the above terms.

S.A. BOBDE, J.